

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
)	
Franck Bouquerel et al.)	Group Art Unit: 1796
)	
Application No.: 10/583,168)	Examiner: Gregory Listvoyb
)	
Filed: May 14, 2007)	Confirmation No.: 5101
)	
For: COMPOSITE MATERIALS COMPRISING)	
A REINFORCING MATERIAL AND A)	
THERMOPLASTIC MATRIX,)	
PRECURSOR COMPOUND ARTICLE OF)	
SAID MATERIALS AND PRODUCTS)	
OBTAINED USING THE SAME)	

ELECTION WITH TRAVERSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Official Action dated December 21, 2009, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. §121:

Group I: Claims 29-52, drawn to a precursor article; and

Group II: Claims 53-54, drawn to a method of making the precursor article.

Accordingly, applicants provisionally elect Group I, the subject matter of Claims 29-52, with traverse.

Applicants submit that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner's search of the invention of the elected claims will overlap the search of the non-elected claims to such an extent that examination of all claims together in a single application will not pose a serious burden.

Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. §803, there are two criteria for a proper restriction requirement between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a **serious burden** on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants note that claims 53-54 depend from claim 29. Thus, both groups clearly possess the same technical features. The Examiner appears to allege that the common technical feature must be patentable over the prior art. Requiring a determination of patentability as a precursor to overcoming a restriction requirement is illogical and contrary to U.S. rules of practice. In any event, by virtue of their dependency on claim 29, claims 53-54 must be rejoined and allowed upon allowance of claim 29.

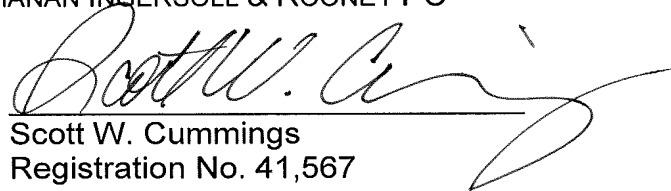
Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional election is hereby made without prejudice to Applicants' right to file a divisional application or applications should the restriction requirement become final.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: January 15, 2010

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